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SUMMARY RECORD OF THE 32nd MEETING

(Second part)*/

Held at the Palais des Nations, Geneva,
on Thursday, 28 February 1985, at 6 p.m.

Chairman: Mr. CHOWDHURY (Bangladesh)

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*/ The summary record of the first part of the meeting is contained in document E/CN.4/1985/SR.32.

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GE.85-15462

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 9) (continued) (E/CN.4/1985/L.14, L.15/Rev.1, L.17, L.19)

1. The CHAIRMAN invited members of the Commission who wished to do so to explain their votes on the resolutions relating to agenda item 9 which had just been adopted.

2. Mr. ERMACORA (Austria), referring to operative paragraph 12 of resolution E/CN.4/1985/L.15/Rev.1, said that his country had consistently supported the idea that a well-prepared conference held under the right conditions could contribute to progress towards a comprehensive, just and lasting solution to the Arab-Israeli conflict. However, it was obvious that the successful convening of a conference presupposed the agreement of all parties concerned to participate in it. His delegation fully shared the view expressed by the Secretary-General to the thirty-ninth session of the General Assembly that such a condition was not met at the present time. Further efforts should be undertaken in the appropriate United Nations forums.

3. Mr. RAVENNA (Argentina), explaining his delegation's vote on resolution L.15/Rev.1, said that it had abstained in the vote on the last preambular paragraph and on operative paragraphs 9 and 10 because his country recognized the right of all States to conclude agreements. It had similarly had to abstain in the vote on operative paragraph 3 because of the reference to "an act of genocide". However, it had voted in favour of operative paragraph 12 because, as it had stated in the discussion on agenda item 4, Argentina favoured a peaceful, just and lasting solution of the Middle East problem, which could only be achieved as a result of negotiations among all the parties concerned, including the Palestine Liberation Movement, and which would deal with such issues as the right of Palestinian people to self-determination, the withdrawal of Israel from all the Arab territories occupied since 1967, the right of all States in the region to live in peace within secure and recognized frontiers and the establishment of a special statute for Jerusalem.

4. Mr. COLLIARD (France) said that his country had abstained in the vote on resolution L.15/Rev.1 as a whole. It had been unable to associate itself with certain paragraphs that dealt with issues outside the Commission's competence. In particular, it considered that the Commission was not competent to express regret at the reaction of Governments towards a conference or to call on them to reconsider their attitude.

5. Mr. DHANAPALA (Sri Lanka) said that his delegation strongly supported the thrust of resolution L.15/Rev.1. It had therefore voted in favour of the resolution as a whole. However, Sri Lanka had consistently refrained from supporting United Nations resolutions which condemned by name any country with which it had diplomatic relations. Sri Lanka had no diplomatic relations with Israel; however, since another country with which it did have diplomatic relations was also mentioned in preambular paragraph 9 and operative paragraphs 10 and 12, his delegation had felt constrained to register its reservations in the separate votes on those paragraphs. It had also abstained on operative paragraph 9, since it believed that all avenues for peace in the Middle East leading to a comprehensive political solution which ensured the inalienable rights of the Palestinians should be explored. That did not run counter to his delegation's firm belief that an international conference on the Middle East in which the Palestine Liberation Organization participated on an equal footing was the best method of discussing ways to achieve such a peace.

6. Mr. LACIETA (Spain), explaining his delegation's vote on resolution L.15/Rev.1, reiterated its total support for the cause of the Palestinian people. However, a number of paragraphs on which separate votes had been taken had prevented it from voting in favour of the resolution as a whole. Thus, his delegation had voted against the final preambular paragraph and operative paragraph 10 because it did not think the Commission was the appropriate forum in which to make a value judgement on the political actions of a member of the Commission, especially as they were not activities which would lead to the non-performance of its obligations under international law. His delegation had been obliged to abstain in the vote on operative paragraph 3 because it did not consider that the responsibility to which it referred had been sufficiently proved. It had also been obliged to abstain in the vote on operative paragraphs 8 and 9 since in its view, no peace plan should be categorically rejected, even if it was only partial. It had also abstained in the vote on operative paragraph 12 since it did not think that the political will of any member of the United Nations with regard to the convening of an international conference on Palestine should be prejudged. Such a conference was desired by all in order to achieve a lasting and just peace that would take into account all the parties concerned in the conflict - an outcome highly desirable for all members of the United Nations.

7. Turning to resolution E/CN.4/1985/L.19, he said that Spain's position on Namibia and the inalienable rights of the Namibian people to self-determination, freedom and independence was well known. However some of the ideas and formulations used in particular paragraphs of the text, such as the reference to the legitimacy of armed struggle in operative paragraphs 2 and 3 and the total severing of all relations with the South African Government had forced his delegation to abstain in the vote. He wished to reiterate the view that the total isolation of the South African regime would primarily have unfavourable repercussions for the coloured population, thus rendering the effects of the policy of apartheid still more intolerable, if that was possible.

8. Mr. KOOIJMANS (Netherlands) said that his delegation had had serious difficulties with certain elements of resolution L.15/Rev.1. He wished to reiterate its objection to the trend in the Commission to politicize topics which were essentially of a strictly humanitarian character. The Commission should leave it to other United Nations bodies to deal with the political aspects of problems. In some respects, the text was unbalanced and, for example, disregarded in operative paragraphs 8 and 9, the value of the Camp David agreements as a possible step towards a comprehensive peace settlement. Furthermore, his delegation could not accept the criticism in operative paragraph 10 of the so-called "strategic co-operation" between the United States of America and Israel. Nor could his delegation accept operative paragraph 3 in which the Sabra and Chatila massacres were described as an act of genocide and the conclusion reached that Israel's responsibility for that massacre had been established. Finally, his delegation had had serious difficulties with operative paragraph 12. The Commission was not competent to conclude whether or not conditions for a fruitful conference had been met.

9. His delegation had abstained on resolution L.19. It had voted against operative paragraphs 2 and 3 in which the Commission reaffirmed the legitimacy of, inter alia, "armed struggle". It was against the policy of his Government to endorse armed struggle to achieve political goals. His delegation had also had difficulties with operative paragraphs 10 and 16; though it was in favour of strict compliance with the military aspects of an embargo on exports to South Africa, it could not support the complete isolation of that country, as already explained in his Government's statements during the debate on the agenda item.

10. Mr. de PIEROLA (Peru) said that his delegation had voted in favour of resolution L.15/Rev.1 because it considered that the Palestinians, like all peoples under colonial domination or foreign occupation, should have the right to self-determination. However, it had been obliged to abstain on the last preambular paragraph and operative paragraphs 3, 8, 9 and 10 because it considered that the quest for a solution of the Palestinian problem should be based on dialogue and on international decisions, especially Security Council resolution 242. Furthermore, his delegation supported a peaceful solution to the dispute.

11. With regard to resolution L.19, his delegation wholeheartedly supported the rights of the Namibian people to independence and freedom in accordance with international law and the Charter of the United Nations. It had therefore voted in favour of the resolution, although it had abstained in the vote on operative paragraphs 2 and 3 because Peru did not support the use of violence as a way of solving conflicts.

12. Mr. EKBLOM (Finland), speaking in explanation of his delegation's vote on resolution L.19, said that in view of Finland's long-standing commitment to the exercise by the Namibian people of their inalienable rights to self-determination and independence, it was a matter for regret that his delegation had not been able to vote in favour of resolution L.19. The United Nations had been established in order to promote the peaceful solution of international problems; accordingly, his delegation was unable to support an endorsement by the Organization of "armed struggle" and had consequently voted against operative paragraphs 2 and 3. Furthermore, the singling out of individual countries on a selective basis was detrimental to the maintenance of an international consensus on the Namibian question. Finally, the implementation of certain of the provisions in the resolution would encroach on the constitutional rights and freedoms of Finnish citizens. For those reasons, his delegation had abstained in the vote on resolution L.19 as a whole.

13. Mr. ROBERTSON (Australia) said that his country was a firm supporter of independence for Namibia and was a member of the Council of Namibia. It was therefore with some regret that it had had to abstain in the vote on resolution L.19 because of its difficulties with the text. It had voted against operative paragraphs 2 and 3 for the reasons already stated by the Colombian representative (E/CN.4/SR.32, paragraph 106).

14. Mr. MURARGY (Mozambique) said that his delegation had voted in favour of resolution L.19 in order to reaffirm his country's condemnation of the policy of apartheid and to stress its wholehearted support for the South African people in its struggle. Since apartheid had been declared in United Nations resolutions to be a crime against humanity, the international community was duty bound to use all means to compel the South African Government to put an end to the system. However, in spite of his delegation's approval of operative paragraphs 2 and 3, it wished to emphasize that the armed struggle should be waged by the South African people themselves within and from their own country.

15. Mr. WOODRUFF (United States of America) said that his delegation's abstention in the vote on resolution L.17 had been prompted by operative paragraph 1. His delegation had often made it clear that the United States would welcome any decision freely arrived at by the people of the Western Sahara including the decision to become an independent State. However, operative paragraph 1 appeared to prejudge the issue in a manner which his delegation found inappropriate in any United Nations body. The Commission should await the independent judgement of the people most directly concerned.

VIOLATIONS OF HUMAN RIGHTS IN SOUTHERN AFRICA: REPORT OF THE AD HOC WORKING GROUP OF EXPERTS (agenda item 6) (continued) (E/CN.4/L.22, L.23, L.28)

Draft resolution E/CN.4/L.22

16. Mr. MTANGO (United Republic of Tanzania), introducing draft resolution E/CN.4/1985/L.22 on behalf of its sponsors, announced that the delegations of China and Nigeria had also asked to become sponsors of the draft resolution. He noted that the fourth preambular paragraph referred to the continuing illegal occupation of Namibia by South Africa as constituting both an act of aggression against the Namibian people and a challenge to the authority of the United Nations, which had direct responsibility for Namibia and to independence. The operative part of the draft resolution condemned various aspects of South African policy and proposed arrangements for further work by the Ad hoc Working Group of Experts. In the context of those paragraphs, he wished to remind the members of the Commission that during its current session, further atrocities were being committed against the people of Namibia by the South African regime. Only a few days previously, the South African authorities had issued a communiqué announcing the death by suicide of a detainee after only five days in custody. Recent reports, including the Amnesty International Bulletin dated February 1985, referred to the widespread and systematic torture of political detainees drawn from all sectors of society, who were not charged with any crime. Several had died in custody. He therefore appealed to all members of the Commission to express their abhorrence at such atrocities by adopting the draft resolution by consensus.

17. The CHAIRMAN announced that the following delegations had indicated their wish to become sponsors of the draft resolution: Afghanistan, Bolivia, India, Lesotho, Libyan Arab Jamahiriya, Mauritania, Nicaragua and Pakistan.

18. Mr. WOODRUFF (United States of America) requested a vote on the draft resolution.

19. At the request of the representative of the United Republic of Tanzania, a vote was taken by roll-call on draft resolution E/CN.4/1985/L.22.

20. The Ukrainian Soviet Socialist Republic, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Australia, Austria, Bangladesh, Brazil, Bulgaria, Cameroon, China, Colombia, Congo, Costa Rica, Cyprus, Finland, Gambia, German Democratic Republic, India, Ireland, Japan, Jordan, Kenya, Lesotho, Nigeria, Libyan Arab Jamahiriya, Mauritania, Mexico, Mozambique, Netherlands, Nicaragua, Peru, Philippines, Senegal, Spain, Sri Lanka, Syrian Arab Republic, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Republic of Tanzania, Venezuela, Yugoslavia.

Against: None.

Abstaining: France, Germany, Federal Republic of, United Kingdom of Great Britain and Northern Ireland, United States of America.

21. Draft resolution E/CN.4/1985/L.22 was adopted by 39 votes to none, with 4 abstentions.

22. Mr. COLLIARD (France), speaking in explanation of vote, recalled that his country had constantly pressed for Namibia's independence in accordance with the arrangements set out in Security Council resolution 435 (1978). It had also voted in favour of Security Council resolutions 532 (1983) and 539 (1983) calling for the rapid implementation of the United Nations plan to end the illegal occupation of Namibia by South Africa. In spite of the obstacles holding up negotiations, France hoped that developments could contribute to establishing the necessary conditions to settle the Namibian question. Pending such a settlement, it intended to maintain a position which would duly enable it to contribute to the successful outcome of the independence process. For that reason, his delegation had recorded an abstention on principle, in conformity with France's vote on the subject at the last session of the General Assembly.

23. Mr. WOODRUFF (United States of America), speaking in explanation of vote, said that since the United States was actively engaged in assisting all parties to arrive at a peaceful negotiated solution which would facilitate the earliest possible independence of Namibia, it would have been inopportune for his delegation to take a position on the resolution. In his delegation's view, the negotiations had achieved measurable progress in recent months and any position other than abstention on its part might adversely affect them.

24. Mr. CURTIN (Australia), speaking in explanation of vote, said that although his delegation had had difficulties with some of the formulations and the recommendations and conclusions in the report of the Ad Hoc Working Group of Experts (E/CN.4/1985/8), it had voted in favour of the resolution, because it had wished to support the overriding message contained in the basic United Nations resolutions on Namibia. Australia's views on the issue of Namibia's self-determination and independence had been made clear in his delegation's statements under agenda items 6 and 9.

Draft resolution E/CN.4/1985/L.23

25. Mr. MTANGO (United Republic of Tanzania) introduced draft resolution E/CN.4/1985/L.23 on behalf of its sponsors and said that the delegations of China and Nigeria had also expressed the wish to become sponsors of that resolution. He announced a number of amendments which, after careful consideration, his co-sponsors had decided to accept, trusting in the good faith of delegations that such concessions would enable them to vote in favour of the draft resolution as a whole and in the realization that all delegations shared the strong feelings of the co-sponsors about the abhorrent system of apartheid in South Africa. In operative paragraph 1, the word "reports" had been amended to read "report" and in operative paragraph 2 a similar amendment had been made, and the symbol number E/CN.4/1985/8 had been added after that amendment. Operative paragraph 14 had been reformulated to read:

> "Takes note of the studies and findings of the Ad Hoc Working Group of Experts on the relationship between apartheid and genocide contained in document E/CN.4/1985/14 and requests the Ad Hoc Working Group to continue its investigation of the matter".

26. Reviewing the salient points of the operative paragraphs of the draft resolution, he pointed out that the language in the opening part of operative paragraph 5 was almost exactly the same as that contained in operative paragraph 1, paragraph 2 of Security Council resolution 554 (1984).

27. Violations of human rights in South Africa continued unabated. The previous week about 19 persons had lost their lives and more than 200 had been injured by the action of the brutal South African racist police. A number of prominent opponents of apartheid had been arrested and charged with treason. As

Nobel peace prize winner, Bishop Desmond Tutu, had pointed out the charge of treason carried the death penalty . He hoped that the draft resolution would be adopted by consensus.

28. The CHAIRMAN announced that the following delegations had also indicated their wish to become sponsors of the draft resolution: Afghanistan, Bolivia, Ethiopia, India, Libyan Arab Jamahiriya, Mauritania and Pakistan. He drew the attention of the Commission to document E/CN.4/1985/L.28 which set out the financial implications of the adoption of the draft resolution.

29. Mr. GAGLIARDI (Brazil) asked how the amendment to operative paragraph 1 affected foot-note 2.

30. Mr. MTANGO (United Republic of Tanzania) said that the foot-note did not constitute part of the agreed amendment and he would leave it to the secretariat to deal with in accordance with established practice.

31. Mr. MAHONEY (Gambia), speaking on a point of order, noted that although his delegation was a member of the Commission, its name in the list of sponsors had been marked with an asterisk which denoted an observer delegation.

32. At the request of the representative of the United Republic of Tanzania, a vote was taken by roll-call on draft resolution E/CN.4/1985/L.23, as amended orally.

33. The Federal Republic of Germany, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Australia, Austria, Bangladesh, Brazil, Bulgaria, Cameroon, China, Colombia, Congo, Costa Rica, Cyprus, Finland, France, Gambia, German Democratic Republic, Germany, Federal Republic of, India, Ireland, Japan, Jordan, Kenya, Lesotho, Liberia, Libyan Arab Jamahiriya, Mauritania, Mexico, Mozambique, Netherlands, Nicaragua, Peru, Philippines, Senegal, Spain, Sri Lanka, Syrian Arab Republic, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Republic of Tanzania, Venezuela, Yugoslavia.

Against: United States of America.

Abstaining: United Kingdom of Great Britain and Northern Ireland.

34. Draft resolution E/CN.4/1985/L.23 as amended orally, was adopted by 41 votes to 1, with 1 abstention.

35. Mr. HOYNCK (Federal Republic of Germany), speaking in explanation of vote, welcomed the fact that last-minute amendments had enabled his delegation to express, through its vote in favour of the resolution, its strong and continued condemnation of apartheid. Nevertheless, it had still had serious difficulties in accepting a number of elements, in particular operative paragraphs 2, 5 and 14. Furthermore, he thought it important to review the mandate of the Ad Hoc Working Group of Experts: as was well known, his delegation did not agree with all of the Group's conclusions and recommendations. In conclusion, he observed that a resolution which included elements unacceptable to some delegations was not the most effective way of expressing the Commission's views on apartheid. Apartheid was in such basic contradiction with fundamental human rights that no effort should be spared to make it possible for the Commission to adopt a consensus resolution on the issue.

36. Mr. KOOIJMANS (Netherlands), speaking in explanation of vote, thanked the sponsors of the resolution for agreeing to a final draft which had enabled his delegation to vote in favour of it, thus showing its appreciation of the conclusions of the general report of the Ad Hoc Working Group of Experts and to its abhorrence of the system of apartheid. However, his delegation continued to have reservations with regard to the conclusions of the report of the Ad Hoc Working Group of Experts in document E/CN.4/1985/14.

37. Mr. COLLIARD (France), speaking in explanation of vote, commended the positive attitude of the African States in reformulating certain of the provisions of the resolution. In recognition, although his delegation had some reservations on certain paragraphs, it had decided to vote in favour of the resolution.

38. Mr. LACLETA (Spain), speaking in explanation of vote, expressed his appreciation of the efforts of all delegations in helping to recast some of the most contentious paragraphs of the draft resolution, thus enabling his delegation to vote in favour of it, as it had wished. However, he had to record his delegation's rejection of the language used in some parts, such as in operative paragraph 14, and its opposition to the possible identification of genocide with apartheid in operative paragraph 14.

39. Sir Anthony WILLIAMS (United Kingdom) said that although the last-minute amendments introduced by the sponsors of the resolution had met the problems of other delegations, they had not gone far enough for his own, which had difficulties with several of the operative paragraphs. His delegation recognized that the new South African Constitution was seriously flawed for the reasons set out in the subparagraphs of operative paragraph 5, but it believed that the new arrangements should be allowed to stand the test of time. The United Kingdom had neither welcomed them nor condemned them and could not therefore accept that they should be rejected as "null and void". The United Kingdom had consistently condemned the use of force by any party to solve the problems of southern Africa, including the violations of the sovereignty and territorial integrity of neighbouring States. However, there was no recent evidence to support the reference to "military pressures" in operative paragraph 10. His delegation had therefore been obliged to abstain in the vote on the resolution.

40. Mr. WOODRUFF (United States of America), speaking in explanation of vote, said that he had hoped to be able to join a consensus on a resolution against apartheid and had actively negotiated to that end. However, he had finally been obliged to vote against the resolution. To the extent to which the resolution contained a strong condemnation of the system of apartheid, his delegation was in complete agreement with it, as its statements under the relevant agenda item had made abundantly clear. However, there were a number of substantive elements in the text to which his delegation could not subscribe. It did not believe that the United Nations had the power to declare the constitutional provisions of any State "null and void". No country represented on the Commission would countenance that language directed against itself. Furthermore, genocide was the term with a clear meaning which should be used only where it did in fact apply. Wrong as apartheid was, it was not genocide. In United Nations resolutions, words, which had meanings, should be chosen with care and the text of the resolution fell short of the required standard.

41. Mr CURTIN (Australia) said that the Commission should seek agreement on its pronouncements on the subject of apartheid. Thanks to the form which the resolution had assumed after long discussions, his delegation had voted for it. It would have abstained on preambular paragraph 5 and operative paragraph 14 if a separate vote had been taken on them. The bringing together of formulations on subjects as fundamental as those set out in the paragraphs he had mentioned had to be done in such a way as to protect established definitions and universal support for them. His delegation wished to reflect carefully on the report of the Ad Hoc Working Group of Experts.

THE ADVERSE CONSEQUENCES OF THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO COLONIAL AND RACIST REGIMES IN SOUTHERN AFRICA (agenda item 7) (E/CN.4/1985/L.25) (continued)

Draft resolution E/CN.4/1985/L.25

42. Mr. FERJANI (Libyan Arab Jamahiriya) introduced draft resolution E/CN.4/1985/L.25 on behalf of its sponsors and announced that the delegations of Bulgaria, China, the German Democratic Republic and Nigeria had asked to become sponsors. He recalled that in resolution 39/15, the General Assembly had requested the Commission at its current session to give priority to the study of the updated report by the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/Sub.2/1984/8 and Add.1 and 2). The sponsors of the draft resolution had taken cognizance of the findings in that report which bore on the moral responsibility of the international community for the continued existence of the racist regime in southern Africa and its violations of human rights as well as the special responsibilities which should be assumed by the Commission in encouraging the international community to adopt all necessary measures to put an end to the assistance supplied to that regime. The sponsors of the draft resolution had made commendable efforts to produce an objective and constructive text which would take into account the different points of view represented in the Commission, while basing themselves on the facts contained in the report and the principles of international law.

43. The CHAIRMAN announced that the following additional delegations wished to become sponsors of draft resolution E/CN.4/1985/L.25: Afghanistan, Bolivia, Congo, Gambia, the Islamic Republic of Iran, Mauritania, Mongolia and Pakistan.

44. Mr. NYAMEKYE (Deputy Director, Centre for Human Rights) said he wished to clarify the administrative and programme budget implications for the biennium 1984/5 of operative paragraphs 19 and 20 of the draft resolution. Operative paragraphs 10 and 14 of General Assembly resolution 39/15 contained similar provisions. Before that resolution was adopted by the Third Committee, the Secretary-General had stated in document A/C.3/39/L.16 that the additional requirements for the implementation of the draft resolution totalled $58,200. Subsequently, the Fifth Committee had decided by a recorded vote of 85 to 9 with 11 abstentions that the General Assembly would be informed that no additional appropriations would be required under the programme budget for the 1984/5 biennium (document A/39/681). Hence, should the Commission adopt draft resolution E/CN.4/1985/L.25, there would be no additional appropriations for the 1984/5 programme budget.

45. At the request of the representative of the United States of America, the vote on draft resolution E/CN.4/1985/L.25 was taken by roll call.

46. China, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Bangladesh, Brazil, Bulgaria, Cameroon, China, Colombia, Congo, Cyprus, Gambia, German Democratic Republic, India, Jordan, Kenya, Lesotho, Liberia, Libyan Arab Jamahiriya, Mauritania, Mexico, Mozambique, Nicaragua, Peru, Philippines, Senegal, Sri Lanka, Syrian Arab Republic, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Republic of Tanzania, Venezuela, Yugoslavia.

Against: France, Germany, Federal Republic of, Netherlands, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Australia, Austria, Costa Rica, Finland, Ireland, Japan, Spain.

47. Draft resolution E/CN.4/1985/L.25 was adopted by 31 votes to 5 with 7 abstentions.

48. Mr. KOOIJMANS (Netherlands), speaking in explanation of vote, said that he had voted against the resolution. His Government did not subscribe to the view that the maintenance of various forms of relationship with South Africa had, ipso facto, adverse effects on the human rights situation in that country. Consequently, it saw no need to compile a list of companies which, by their presence in South Africa, were supposed to influence negatively the observance of human rights. Furthermore, the list in the Sub-Commission's report (E/CN.4/Sub.2/1984/8) was inaccurate and flawed. His delegation supported the condemnation in operative paragraph 5 of the resolution of the activities of foreign companies in Namibia and also the appeal to Governments in operative paragraph 7 to take measures to end all technological assistance or collaboration in the manufacture of arms and military supplies. His Government opposed the imposition of comprehensive mandatory sanctions against South Africa but it could support selective measures by the Security Council as mentioned in operative paragraph 9, subparagraphs (a) and (b).

49. Mr. MURARGY (Mozambique), speaking in explanation of vote, pointed out that owing to well known historical and geographical reasons, his country was not in a position to apply the sanctions against South Africa proposed in operative paragraph 9 of the resolution. It did however believe that sanctions should be applied by those States which were in a position to do so and which, by being partners of South Africa, allowed the regime to survive. Under no circumstances should the example of Mozambique be used as an excuse to justify continued collaboration with South Africa.

50. Mrs. OGATA (Japan) said that her delegation had abstained in the vote on the resolution because it contained elements in operative paragraphs 6, 9, 16, 17, 18, 19 and 20 which it could not support. As her delegation had repeatedly made clear, it entertained some basic doubts about the method employed by the Special Rapporteur in drawing up his report and about whether the vote which had just been taken would in any way contribute to the efforts to eradicate racism and racial discrimination in South Africa.

51. Mr. MOONYANE (Lesotho) said that his delegation had voted for the resolution but for reasons which it had explained in its statement during the debate on the agenda item, it had reservations on operative paragraphs 6, 9, 13 and 14 which were punitive in nature.

52. Mr. CURTIN (Australia) said that his delegation's abstention in the vote on the resolution was prompted by the direction which the Sub-Commission's investigations under the agenda item had taken and also by various formulations in the lengthy text. With regard to operative paragraph 20, he would note the need to encourage financial restraint.

53. The CHAIRMAN pointed out that, by adopting resolution L.25, the Commission had dealt with Sub-Commission draft resolution No. I, contained in document E/CN.4/1985/3, to which reference was made under agenda item 19 in the annotations to the agenda (E/CN.4/1985/1/Add.1, page 22).

IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE SUPPRESSION AND PUNISHMENT OF THE CRIME OF APARTHEID (agenda item 16) (continued) (E/CN.4/1985/L.20)

Draft resolution E/CN.4/1985/L.20

54. Mr. KHMEL (Ukrainian Soviet Socialist Republic) introduced draft resolution E/CN.4/1985/L.20 and pointed out that the agenda item had been under discussion in the Commission ever since its first session. The draft resolution covered the principal aspects relating to the implementation of the International Convention on Suppression and Punishment of the Crime of Apartheid. The first aspect was the work of the Group of three members of the Commission appointed under article IX of the Convention and the co-operation of States parties to the Convention with it. The third preambular paragraph and operative paragraphs 1, 2, 3 and 6 related to that aspect. The second aspect was encouragement of wider participation in the Convention. That was covered in the final preambular paragraph and operative paragraph 4. The third aspect was the condemnation of the continuing co-operation of certain States and transnational corporations with the racist regime of South Africa, referred to in the eighth preambular paragraph, and operative paragraphs 8, 13 and 14. The fourth aspect was the possibility of considering apartheid as a form of genocide. That was a new element, although as had been pointed out in the Convention, some of the acts constituting the crime of apartheid were identical with those constituting the crime of genocide. The relevant paragraphs were the sixth preambular paragraph and operative paragraph 5. Finally, in operative paragraphs 15 and 16, the draft resolution made provision for the next meeting of the Group of Three.

55. The CHAIRMAN announced that the following delegations also wished to become sponsors of the draft resolution: Afghanistan, Mauritania, Mongolia, Pakistan and Peru.

56. At the request of the representative of the United States of America, a vote was taken by roll call on draft resolution E/CN.4/1985/L.20.

57. Mauritania, having been drawn by lot by the Chairman, was called upon to vote first.

In favour:	Argentina, Bangladesh, Brazil, Bulgaria, Cameroon, China, Colombia, Congo, Costa Rica, Cyprus, Gambia, German Democratic Republic, India, Jordan, Kenya, Lesotho, Liberia, Libyan Arab Jamahiriya, Mauritania, Mexico, Mozambique, Nicaragua, Peru, Philippines, Senegal, Sri Lanka, Syrian Arab Republic, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Republic of Tanzania, Venezuela, Yugoslavia.
Against:	United States of America
Abstaining:	Australia, Austria, Finland, France, Germany, Federal Republic of, Ireland, Japan, Netherlands, Spain, United Kingdom of Great Britain and Northern Ireland.

58. Draft resolution E/CN.4/1985/L.20 was adopted by 32 votes to 1, with 10 abstentions.

59. Mr. KOOIJMANS (Netherlands), speaking in explanation of vote, said that his Government's condemnation of the system of apartheid was clear from his delegation's statement on the agenda item. However, his Government had an overwhelming objection of a legal nature to the International Convention in

question and did not intend to accede to it. As in previous years, his delegation had therefore abstained in the vote. Furthermore, his Government could not agree with any efforts to extend the applicability of the Convention to the actions of transnational corporations operating in South Africa. It continued to believe that there was no need to investigate whether such corporations bore responsibility for the continued existence of the system of apartheid.

60. Mr. COLLIARD (France) said that at previous sessions, his delegation had explained its position with regard to the Convention which, from the legal viewpoint, did not offer the necessary safeguards as they were understood in France. For that reason, France, although categorically condemning apartheid, was unable to accede to the Convention. His delegation had consequently abstained in the vote on the resolution.

61. Mrs. OGATA (Japan) observed that her Government had expressed its disapproval of apartheid on many occasions. However, her delegation had abstained in the vote on the resolution owing to the reservations it entertained about the Convention on purely legal grounds.

62. Mr. CURTIN (Australia) said that his delegation had abstained in the vote on the resolution for reasons that it had indicated on many previous occasions.

IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE SECOND DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (agenda item 17 (b)) (E/CN.4/1985/L.24 and L.29) (continued)

Draft resolution E/CN.4/1985/L.24

63. Mr. SENE (Senegal) introduced draft resolution E/CN.4/1985/L.24 on behalf of its sponsors and announced that the delegations of Gambia and Nigeria had also asked to become sponsors. The draft resolution proposed a certain number of measures to implement the plan of activities for the period 1985-1989 within the Second Decade to Combat Racism and Racial Discrimination. He hoped that the draft resolution could be adopted by consensus since it came within the purview of decisions already taken by the General Assembly.

64. The CHAIRMAN announced that the following delegations wished to become sponsors of the draft resolution: Afghanistan, Algeria, Islamic Republic of Iran, Mauritania and Pakistan. He drew attention to the financial implications of the draft resolution which were set out in document E/CN.4/1985/L.29.

65. Draft resolution E/CN.4/1985/L.24 was adopted by consensus.

66. Mr. HÖYNCK (Federal Republic of Germany), speaking in explanation of vote, said that his delegation had been pleased to be able to join the consensus on the resolution. However, it wished to state its reservations on operative paragraph 2, which referred to international conventions to which his country was unable to accede, for legal reasons which had often been explained. In conclusion, his delegation was by no means sure that the topic for the seminar recommended in operative paragraph 6 was a good choice.

67. Mr. COLLIARD (France), speaking in explanation of vote, said that in joining the consensus on the resolution, his delegation wished to place on record its reservations on operative paragraph 2 which referred to the International Convention on the Suppression and Punishment of the Crime of Apartheid. His delegation had already explained its position on that subject in connection with resolution E/CN.4/1985/L.20.

68. Sir Anthony WILLIAMS (United Kingdom), speaking in explanation of vote, emphasized that the fact that his delegation had joined the consensus on the resolution did not in any way alter its position on the International Convention on the Suppression and Punishment of the Crime of Apartheid, to which reference was made in operative paragraph 2. In its view, it would have been preferable to retain the language adopted at the previous session in resolution 1984/8.

69. Mr. WOODRUFF (United States of America) said that his delegation had not participated in the discussion on the agenda item or in the vote. In its view, the activities under the Second Decade to Combat Racism and Racial Discrimination were totally discredited by the alleged equation between racism and Zionism.

70. Mrs. OGATA (Japan) said she wished the Commission to recall that, as recognized in the Secretary-General's report (A/39/167, para. 8), the plan of activities for the period 1985-1989 was to be implemented in an economical and effective manner. She hoped that the seminar would prove useful but her delegation had reservations about the suitability of the topic recommended in operative paragraph 6.

71. Mr. CURTIN (Australia) said that if there had been a separate vote on operative paragraph 2 of the resolution, his delegation would have abstained for the same reasons as it had abstained in the vote on resolution E/CN.4/1985/L.20. However, his delegation had been pleased to join in adopting resolution E/CN.4/1985/L.24 without a vote. It believed that it was important that the Second Decade to Combat Racism and Racial Discrimination should continue to proceed along consensus lines.

The meeting rose at 9.05 p.m.